

SENATE BILL 3122
By Henry

AN ACT to amend Tennessee Code Annotated, Title 55, Chapter 10, relative to the use of ignition interlock devices.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 55-10-412, is amended by deleting subsection (d) and substituting instead the following:

(d)(1) In addition to the penalties authorized for violations of this part, a court shall order a person to operate only a motor vehicle that is equipped with a functioning ignition interlock device as a condition of:

(A) Bond, pending trial for any violation of the provisions of Sections 55-10-401, until the disposition of that person's case, if the person at the time of arrest for the violation refused to take a breath alcohol test, or upon taking such breath alcohol test, had a breath alcohol content level of ten-hundredths of one percent (.10%) or greater;

(B) The disposition of that person's case if the person is convicted for the first time of a violation of the provisions of Sections 55-10-401, if upon assessment, it is determined that such person has an alcohol problem that requires treatment; the period of the interlock use in such event shall be for the period of treatment, or six (6) months, whichever is greater; and

(C) The disposition of that person's case if the person is convicted of a second or subsequent violation of the provisions of Section 55-10-401, within five

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(5) years of a prior conviction; such order shall be for a period of not less than one (1) year and for an additional period of one (1) year beyond the person's period of driver license suspension.

(2) During the period of interlock use, the department shall issue the person a conditional driver license, enabling him to drive to and from work, medical and treatment programs, and religious events. At the conclusion of the interlock period, the court may, upon petition and the showing of good cause, order the reinstatement of the person's driving privilege by the department or order the continuation of the person's interlock use and treatment for up to one (1) year beyond the person's period of driver license suspension.

(3) As used in this section, "ignition interlock device" means a device which is hard wired and soldered and covered with a proprietary seal into the ignition system of a motor vehicle, preventing the motor vehicle from starting if a driver's breath alcohol level exceeds two and one-half hundredths of one percent (.025%).

(4) Such interlock device shall be specific to the detection of alcohol, and must meet the standards set forth in guidelines for ignition interlock devices published on April 7, 1992 in the Federal Register, and shall be capable of providing a rolling retest. Any device used shall be certified by an ISO 9000 laboratory, or equal, to meet these technical specifications. The device shall be capable of recording the activities of the driver during the period of interlock use, including but not limited to, the person's breath alcohol test results, and the date, day and time of each test. Such device shall be capable of electronic transfer of all such data in a format to be determined by the department. The department shall be the repository for any and all reports from an approved service provider as defined in this section.

(5) Any person who installs, monitors, services and calibrates such device shall be known as an approved service provider who must demonstrate to the department that

such person meets minimum criteria to provide such service in accordance with operating protocol to be established by the department, to include but not be limited to:

(A) The reporting of any breath alcohol test which exceeds five hundredths of one percent (.05%) within three (3) days of the event;

(B) The requirement for twenty-four (24) hour telephone service and repair of any device failure within forty-eight (48) hours;

(C) The requirement for calibration of the device at intervals not to exceed ninety (90) days;

(D) Electronic reporting to the department of data logger events from the device; and

(E) Such other protocol requirements that the department requires in its protocol.

(6) The department shall be responsible for reporting violations as defined in the department's protocol to the sentencing court, probation officer, or to the designated treatment agency, as the court directs.

(7) An approved service provider must provide installation, monitoring, calibration, and service to any person required to install an ignition interlock device under this section. No person shall be required to travel more than one (1) hour for any service. Both the manufacturer of the device, and the approved service provider must provide evidence of insurance for product liability and casualty loss in the amount of not less than one million dollars (\$1,000,000) to provide for any losses occasioned by the use of an interlock device.

(8) Any approved service provider must provide a credit of two percent (2%) of its total revenues each month from interlock usage in this state to be used in the discretion of the department as an indigency fund for interlock use in this state. The

credit shall not be cumulative, but shall apply only for the month following the collection of the revenues.

SECTION 2. This act shall take effect July 1, 1998, the public welfare requiring it and shall apply to all violations of the provisions of Tennessee Code Annotated, Section 55-10-401 occurring on or after such date.